

Order

Michigan Supreme Court
Lansing, Michigan

November 19, 2014

Robert P. Young, Jr.,
Chief Justice

148056 & (21)

Michael F. Cavanagh
Stephen J. Markman

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

Mary Beth Kelly
Brian K. Zahra

v

Bridget M. McCormack
David F. Viviano,
Justices

SC: 148056
COA: 316467
Wayne CC: 08-009312-FC

DAVID ROARK,
Defendant-Appellant.

By order of February 28, 2014, the defendant's previously appointed appellate counsel was directed to file a supplemental brief. On order of the Court, the brief having been received, the application for leave to appeal the October 25, 2013 order of the Court of Appeals is again considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals for consideration of the defendant's May 29, 2013 delayed application for leave to appeal as on leave granted. Because the defendant waited more than five months before filing an untimely request for the appointment of appellate counsel, the defendant is not entitled to review under the standard applicable to direct appeals. However, the defendant's previously appointed appellate attorney failed to comply with Administrative Order 2004-6, Minimum Standards for Indigent Criminal Appellate Defense Services, Standard 5. Counsel did not seek to withdraw pursuant to *Anders v California*, 386 US 738; 87 S Ct 1396; 18 L Ed 2d 493 (1967). Therefore costs are imposed against the attorney, only, in the amount of \$1,000 to be paid to the Clerk of this Court.

We do not retain jurisdiction.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 19, 2014

Clerk